



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

May 19, 1999

Mr. John Stephen Horn, Jr., Treasurer
Steve Horn for Congress
3944 Pine Avenue
Long Beach, CA 90807

RE: MUR 4786

Dear Mr. Horn:

On August 17, 1998, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Steve Horn for Congress and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on May 19, 1999.

The confidentiality provisions of 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record prior to receipt of your additional materials, any permissible submissions will be added to the public record when received.

If you have any questions, please contact Alva E. Smith on our toll-free telephone number, (800) 424-9530. Our local telephone number is (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "F. Andrew Turley", is written over a circular stamp.

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

MUR 4786

STEVE HORN FOR CONGRESS

Preston Fletcher, campaign manager for Mathews for Congress, alleges in his complaint that the Steve Horn for Congress Committee (the "Committee") paid for and mailed a letter, entitled "Indian-Americans for Horn," to Mathews' campaign donors urging them to stop contributing to Mathews' committee. Mr. Fletcher believes that this action constitutes an impermissible use of his campaign committee's contributor list for solicitation purposes. Mr. Mathews lost the 1998 General election for California's 38th congressional district with 44% of the vote to Mr. Horn's 53%.

The Committee asserts in its response that the letter in question expressly is not intended, by its express terms, as a solicitation for Rep. Horn, and is a permissible exercise of the Committee's First Amendment rights. The Committee also disclosed that it had sent similar letters in June 1994 and June 1998. The Committee maintains that soliciting campaign contributions and asking others not to contribute to a candidate are distinguishable, and that use of an opponent's contributor list for the latter purpose is lawful. The response asserts that the Committee treasurer consulted twice with the FEC's Information Division before sending out the 1994 letter. The Committee states that the Information Division told the treasurer that the contributor lists could be used as long as no solicitation was intended or made.

This matter is less significant than other matters pending before the Commission.